

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

DERRICK GIBSON
MSG, U.S. ARMY,

and

STEVEN BROWN
SSG, U.S. ARMY, *et al*, for themselves
and all others similarly situated

Plaintiffs

v.

LLOYD AUSTIN
Secretary of Defense,
U.S. DEPARTMENT OF DEFENSE
Washington, D.C. 20301

and

JANET WOODCOCK,
Acting Commissioner,
U.S. FOOD AND DRUG
ADMINISTRATION

and

XAVIER BECERRA
Secretary of the U.S. Department of
Health and Human Services
U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES

Defendants

Civil Action No. _____

Declaration of Derrick B. Gibson, MSG/E-8, U.S. Army

I, MSG Derrick Gibson, do hereby declare as follows:

1. I am over the age of 18 years, have personal knowledge of the matters set forth in this Declaration, and if called upon to testify to them, I would and could do so competently.
2. I am a 79V in the United States ARMY currently serving in 9TH Battalion, Army Reserve Careers Group with duty assignment at Camp Robinson, North Little Rock, Arkansas. My next assignment was supposed to be Fort Jackson, South Carolina with report date of 06 June 2021.
3. I enlisted United States Army Reserve (USAR) in May 1999 as a 91B (wheeled vehicle mechanic) and deployed to Iraq in April 2003 in support of Operation Iraqi Freedom where I served as a mechanic in a transportation battalion for 15 months. Our mission was to transport war-fighting and sustainment supplies, equipment, and troops from Kuwait throughout Iraq. My job was to maintain and repair our vehicles so that we could accomplish this mission. During this time I was directly engaged in combat, and was awarded the Army's "Combat Action Badge".
4. In 2005 I was invited to apply for MOS 79V, Army Reserve Career Counselor (ARCC). I accepted the invitation to apply, and reclassified to MOS 79V in 2006. As an ARCC, I felt I could make a meaningful impact working to achieve and maintain the congressionally-mandated annual end strength objective (ESO) of the Army Reserve through assisting Soldiers and unit commanders with strong retention programs.
5. In 2007 I decided to begin serving full-time on Active Duty for Operational Support (ADOS) before I accepted an Active Guard Reserve (AGR) position which I still presently serve. Over the years, I have personally assisted several hundred Soldiers (conservatively, perhaps in the thousands) with reenlistments, retirement, Officer and Warrant Officer

Accession, Individual Ready Reserve (IRR) transfers, and unit mobilizations and demobilizations. I have assisted units and commanders with retaining a force of capable and strong Soldiers through numerous and multiple deployments. These actions have served, and continue to serve a critical role in the retention of our forces in the USAR.

6. Since my initial entry in 1999, I have now served honorably for almost 23 years, and I will continue to do so, God willing. I am currently a Master Sergeant (MSG) serving as an Area Leader (AL) at Camp Robinson, North Little Rock, Arkansas. The inherent duties of my job require me to travel frequently to supervise and train a team of six geographically-dispersed ARCCs throughout the state of Arkansas. Additional training and tasks require me to travel several times a year throughout our battalion footprint, which includes Missouri, Illinois, Kansas, and Arkansas.

7. On 19 July 2021 I received a positive test for SARS-CoV-2 antibodies with the result “REACTIVE Higher Than Normal”, and a copy is attached here as Exhibit A. This test was administered and processed at the 19th Medical Group Clinic at Little Rock Air Force Base (LRAFB). With these results, and IAW AR 40-562 Chapter 2-6a.(1)(b). (Exhibit B), I submitted a Medical Exemption request on 23 August 2021 (Exhibit C). On 17 December 2021, in the midst of the COVID-19 vaccine mandate, I submitted a new Medical Exemption request (Exhibit D) after having received no disposition from my initial submission on 23 August 2021. Eligibility for my Medical Exemption request was concurred by my Primary Care Manager (PCM) (Exhibit E). To date, I have not received a disposition on my Medical Exemption request.

8. Under current guidance, I am restricted to a maximum of 100 miles for official travel while my Medical Exemption request is pending. Furthermore, IAW Army

Directive 2022-02 (Personnel Actions for Active Duty Soldiers Who Refuse the COVID-19 Vaccination Order and Accession Requirements for Unvaccinated Individuals) effective 31 Jan 2022 (Exhibit F), without an approved exception from the Under Secretary of the Army, my vaccine status renders me ineligible to comply with my Permanent Change of Station (PCS) orders to Fort Jackson, South Carolina on 06 June 2022 (Exhibit G). This travel restriction has placed a profound effect on my ability to execute my duties to the extent of my fullest potential.

9. My Battalion Commander has been supportive of my request for Medical Exemption, but he has stated that he will order me to receive a COVID-19 vaccine in the event my request is disapproved and that he is “just following orders”. If I refuse the order to receive the COVID-19 vaccination, then my Battalion Commander will initiate involuntary administrative separation proceedings IAW Army Directive 2022-02. Upon discharge, I am subject to receive a service characterization of General, Under Honorable Conditions with the reason for separation being “Misconduct (Serious Offense)”. I currently have almost 23 years of total military service, 17 of which are active federal service. Under the conditions of refusing to be vaccinated I will obviously lose an active duty retirement, but I will not compromise my moral integrity, nor will I sell my body to a novel and experimental mRNA vaccine in exchange for an LES.

10. I possess the SARS-CoV-2 antibodies required for immunity even 18 months after infection, and I have not experienced a subsequent reinfection. If immunity is the goal, then my request for Medical Exemption is in good order with AR 40-562 Chapter 2-6a.(1)(b), and neither my PCM nor I can muster a sufficient reason for my Medical Exemption request to be denied.

I declare under penalty of perjury, under the laws of the United States, that the foregoing statements are true and correct to the best of my knowledge.

Executed this February 17, 2022.

Derrick B. Gibson, MSG/E-8, U.S. Army